

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

BNSF RAILWAY COMPANY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 2:23-cv-00008-MTS
)	
DYNO NOBEL, INC.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on review of the file. The Court notes that Plaintiff's Complaint, Doc. [1], has failed to establish this Court's subject matter jurisdiction. *See Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010) ("Courts have an independent obligation to determine whether subject-matter jurisdiction exists, even when no party challenges it."). Plaintiff asserts this Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332.¹ But Plaintiff's allegations explicitly show that there is *not* complete diversity among the parties.

"Complete diversity of citizenship exists where no defendant holds citizenship in the same state where any plaintiff holds citizenship." *In re Prempro Prod. Liab. Litig.*, 591 F.3d 613, 620 (8th Cir. 2010) (quoting *OnePoint Solutions, LLC v. Borchert*, 486 F.3d 342, 346 (8th Cir. 2007)). Here, Plaintiff alleges that both parties are corporations. Doc. [1] ¶¶ 4–5. "For purposes of establishing diversity jurisdiction, 'a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.'" *Jet Midwest Int'l Co. v. Jet Midwest Grp., LLC*, 932 F.3d 1102, 1104 (8th Cir. 2019) (quoting 28 U.S.C. § 1332(c)(1)). Plaintiff alleges that both


¹ Plaintiff did not provide a subsection of § 1332 under which it contends this Court has subject matter jurisdiction, but it appears to advance jurisdiction under § 1332(a). Plaintiff advanced no other source of subject matter jurisdiction.

Plaintiff and Defendant were incorporated in Delaware. Doc. [1] ¶¶ 4–5; *see also* Doc. [7] (disclosing that “Dyno Nobel Inc. is a Delaware Corporation”). Plaintiff’s own allegation show complete diversity is lacking.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff shall show cause, no later than **Thursday, April 27, 2023**, why this case should not be dismissed for lack of subject matter jurisdiction.

Dated this 24th day of April 2023.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE